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FISCAL IMPACT STATEMENT

LS 7344
BILL NUMBER: HB 1194

NOTE PREPARED: Feb 20, 2004
BILL AMENDED: Feb 19, 2004

SUBJECT: Child Abuse Reporting.

FIRST AUTHOR: Rep. Avery
FIRST SPONSOR: Sen. Dillon

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a CPS child abuse or neglect report may conclude that abuse or neglect is indicated. (Current law allows only substantiated and unsubstantiated findings.) The bill provides that criminal history checks are required of certain individuals. The bill also requires the local child protection service to provide training to caseworkers concerning the statutory and constitutional rights of persons subject to investigation. It establishes the statewide child fatality review team to investigate fatalities involving children. The bill requires the disclosure of redacted information concerning the death of a child determined to be the result of abuse, abandonment, or neglect. It provides that a disinterested person appointed by a juvenile court may review redacted records to insure that the records have been properly redacted.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Criminal History Background Checks:* This bill requires (a) the Division of Family and Children, and (b) juvenile probation officers and caseworkers; to conduct a national criminal history background check for each person who is: (1) currently residing in the location designated as the out-of-home placement; or (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location; before placing a child in an out-of-home placement. The bill does not apply to entities that are either not residences or that are licensed by the state.

The Family and Social Services Administration (FSSA) would be ordered by the court at the dispositional hearing to conduct background checks for all blood and adoptive relative caretakers before placement of foster children. The bill is not applicable to nonblood and nonadoptive caretakers. These individuals are required to be licensed if children are to be placed with them, and, thus, would not fall under the requirements

of the bill. The total cost for a national criminal history background check is \$39. However, as is required in current statute, a portion of this cost, \$15, would be waived by the Indiana State Police (ISP). In addition, a fingerprint card would need to be obtained from a local police department for each individual necessitating a check. The cost for this card is \$3. Thus, the actual cost per national criminal history background check is \$27.

There were approximately 13,500 Children in Need of Services (CHINS) in Indiana in CY 2002. The Child Welfare League of American (CWLA) reports that in CY 2000, 13% of foster children in Indiana were placed with relatives. Thus, in CY 2002, approximately 1,630 children were placed with relatives. It is, however, important to note that this number is likely higher than 1,630. The percentage of foster youth that are placed with relatives continues to increase annually.

The bill is not retroactive, thus, FSSA would only be required to obtain background checks of relatives of future foster children. An estimate of this number can be found through identifying the number of children placed with relatives in FY 2002. FSSA placed 1,541 children in out-of-home placements in FY 2002. Of this number, 200, or 13%, are assumed to have been placed with relatives. It should be noted, however, that the number 200 is the total number of children. This number does not indicate the number of households that the children were residing in or how many individuals residing in the households would fall under the requirements of this bill.

It is assumed that a large portion of children will be placed in a one-person household. Grandmothers make up the majority of relative caregivers in the United States. If it is assumed that all 200 children were placed in separate households and that there would only be one person in each household that would necessitate a background check, an annual increase in expenditures of \$5,400 is estimated. This number, however, could be higher or lower depending on (1) the number of adults in each household falling under the requirements of this bill and (2) the number of youth placed in each household.

The bill also requires that (1) substantiated reports of child abuse or neglect, and (2) adjudications as a juvenile, be collected for each individual residing in the out-of-home placement residence. The bill is silent as to whether this information is limited to Indiana or should be collected from the entire United States. Furthermore, the bill does not specify how far back for which the information should be obtained. The FSSA reports that it currently has a centralized system for substantiated reports of abuse or neglect that dates back to 1998. The ISP has a centralized database which accesses all juvenile records in the United States.

The bill does not specify how often criminal history checks must be conducted. Any increase in the number of times that the check must be completed would increase expenditures for the state.

Alternate Placements: A national criminal history background check takes an average of two to three months to be completed. Children would need to be placed elsewhere while waiting for the information to be returned. This would increase expenditures for the state. The cost to house the children during the time period is unknown. It is dependant on the number of children needing to be placed in alternate settings, the type of settings the children are placed in, and the length of time it takes for the national background checks to be returned.

The bill disallows the court from placing a youth in an out-of-home placement if any adult residing in the house has been convicted of any of the following crimes: (1) murder; (2) causing suicide; (3) assisting suicide; (4) voluntary manslaughter; (5) reckless homicide; (6) battery; (7) aggravated battery; (8) kidnapping; (9) criminal confinement; (10) a sex offense; (11) carjacking; (12) arson; (13) incest; (14) neglect of a dependent; (15) child selling; (16) a felony involving a weapon; (17) a felony relating to controlled

substances; (18) an offense relating to material or a performance that is harmful to minors or is obscene; and (19) any other felony that is substantially equivalent to the aforementioned list.

The number of relative caregivers that would have committed a crime listed in one of the above 19 categories is unknown. Children would need to be placed elsewhere if a relative at their prospective placement had committed one of the aforementioned crimes. Some would be placed with other relatives, others would be placed in alternate placements. Both types of placements would create additional expenditures for the state. If the youth were placed with another relative, the youth would need to again be placed elsewhere while waiting for another two to three months to find out the results of the new national background check(s) being completed. The number of youth that would be affected by this type of a situation is unknown. Additional expenditures are dependent on the number of youth necessitating alternate placements and the type of setting that the youth are placed in; additional expenditures are indeterminable.

Increased Administrative Duties: The requirement to obtain a national criminal history background check for all relative caretakers would likely increase administrative duties for the FSSA. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. The FSSA reverted \$95.4 M to the state General Fund in FY 2003. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon administrative actions.

Training: Current statute requires local child protective service offices to have sufficiently qualified and trained staff. The bill would incorporate new areas of training into the current requirements. The bill requires staff in child protective service offices be provided training for recognizing and attempting to uphold the: (a) statutory rights of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect; and (b) right of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect to be protected against unreasonable search and seizure.

Indiana State Police: The ISP would experience an increase in workload due to the increase in national background checks requested.

Psychological Services: The bill would allow the court to order a child, and the child's parent or guardian, to receive psychological counseling if the child is a delinquent child who has committed an act that would be considered a sexual offense if it were committed by an adult. The bill does not specify whether or not the juvenile and parent or guardian should receive counseling together, separately, or both together and separately.

Current statute allows the court to order a delinquent child to receive psychological treatment. In FY 2002, 74 youths were adjudicated as sexual offenders, and 81 were adjudicated in FY 2003. The number of these offenders that were ordered to receive psychological counseling is unknown. The bill could potentially increase expenditures for the state. Any increases, however, are dependent on (1) the number of juveniles adjudicated as sexual offenders annually that would not have been ordered to receive psychological counseling under current statute, and (2) the number of parents or guardians that are ordered to undergo counseling.

Falsifying and Interfering: The bill allows the court to charge an individual who knowingly or intentionally commits obstruction of a child abuse investigation through (1) falsifying child abuse or neglect information

or records; or (2) obstructing or interfering with a child abuse investigation, including an investigation conducted by a local child fatality review team or the statewide child fatality review committee; with a Class A misdemeanor.

Statewide Child Fatality Review Committee: The bill would establish the 12-member Statewide Child Fatality Review Committee consisting of state employees and lay members. The Committee is established to: (1) review a child's death that is (a) sudden; (b) unexpected; or (c) unexplained; if the county where the child died does not have a local child fatality review team or if the local child family review team requests a review of the child's death by the statewide committee; and (2) review the death of a child or a near fatality of a child upon request by an individual.

The Division of Family and Children shall provide training to the Committee. Furthermore, the Division shall develop a data collection form for the Committee. The bill does not specify reimbursement rates for Committee members, however, the expenses of the Committee shall be paid from funds appropriated to the Division.

The funds required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. Total reversions for the Family and Social Services Administration were \$95.3 M in FY 2003.

Release of Information: The bill would allow records regarding the death of a child determined to be a result of abuse, abandonment, or neglect, held by (1) the Division of Family and Children; (2) a county office of family and children; (3) a local child protection service; (4) a local child fatality review team; and (5) the statewide child fatality review committee; to be disclosed to any person who requests the information if the record has been redacted to remove information not directly relevant to the death. The person requesting the information may be required to pay the expenses of redacting the record. The aforementioned entities may experience an increase in administrative tasks. Any increase in administrative duties are likely small. In FY 2003, 51 children died as a result of abuse or neglect in 22 counties. Fee collections are dependent on the (a) number of records requested, and (b) number of individuals that are not required to pay the expenses of redacting the record.

If a person believes that a record has been improperly redacted, they may file a written request for review of the record with the court. The court must, within 30 days, appoint a disinterested person to review the record and determine whether the record has been properly redacted. If it has not, the disinterested person shall properly redact the record. The court shall determine reasonable compensation for the disinterested person and order the person requesting the record review to pay the amount to the disinterested person. The court would experience an increase in administrative duties when identifying a disinterested person and ordering them to review the record, however, any increase is likely small. Increases in administrative duties are dependent on (1) the number of records that are not properly redacted, and (2) the number of persons that file a written request for review of a record with the court.

Explanation of State Revenues: (Revised) *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small. (See *Explanation of State Expenditures: Falsifying and Interfering.*)

Explanation of Local Expenditures: (Revised) *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. (See *Explanation of State Expenditures: Falsifying and Interfering.*)

Explanation of Local Revenues: (Revised) *Juvenile Probation.* In FY 2002, 23,399 youth were placed on probation in Indiana. A consulting group for nonprofit management, reports that approximately 25% to 33% of these youth were placed in foster care placements. Using these percentages, a range of 5,850 to 7,721 youth on probation are estimated to be placed in foster care placements. It should be noted that this number represents youth placed in foster family homes and with relatives. A separate number for youth placed with relatives is unknown. Below is a chart indicating the annual cost for background checks based on possible numbers of youth.

Percentage of Youth Placed with a Relative	Annual Expenditures for Criminal History Background Checks (25% of 23,399)	Annual Expenditures for Criminal History Background Checks (33% of 23,399)
100%	\$157,950	\$208,467
75%	\$118,462	\$156,350
50%	\$78,975	\$104,233
25%	\$39,487	\$52,116

Alternate Placements: Youth would need to be placed in an alternate placement while waiting for the results of the national background check to be returned. The state and county governments would be responsible for housing the child elsewhere. Below is a table which summarizes the average per diem for various juvenile detention facilities in the state.

Type of Facility	Average Per Diem Costs	Range of Cost
Department of Correction*	\$76.50	\$61.50 to \$120.50
Juvenile Detention Facility	\$114.00	\$70 to \$160
Private Secure Facility	\$238.26	\$147 to \$352
Shelter Care Facility Child Caring	\$134.48	\$68 to \$280
Shelter Care Facility Group Home	\$125.65	\$48 to \$323
*Note: This represents the county's share of the costs. Half of the per diem cost for DOC facilities is paid by the county from which the juvenile is committed, and half is paid by the state of Indiana.		

As was mentioned above, the bill disallows the court from placing a youth in an out-of-home placement if any adult residing in the house has been convicted of any of the following crimes: (1) murder; (2) causing suicide; (3) assisting suicide; (4) voluntary manslaughter; (5) reckless homicide; (6) battery; (7) aggravated battery; (8) kidnapping; (9) criminal confinement; (10) a sex offense; (11) carjacking; (12) arson; (13) incest; (14) neglect of a dependent; (15) child selling; (16) a felony involving a weapon; (17) a felony relating to controlled substances; (18) an offense relating to material or a performance that is harmful to minors or is obscene; and (19) any other felony that is substantially equivalent to the aforementioned list.

The Indiana Judicial Center (IJC) reports that some of the relatives that would house juveniles on probation

may have committed a crime listed in one of the above 19 categories. As a result, the youth, that would have been placed with these relatives, would need to be placed in alternate locations. Some would be placed with other relatives, others would be placed in juvenile detention facilities. Both types of placements would create additional expenditures for the state. If the youth were placed with another relative, the youth would need to again be placed elsewhere while waiting for another two to three months to find out the results of the new national background check(s) being completed. The number of youth that would be affected by this type of situation are unknown. Increased expenditures are dependent on the number of youth necessitating alternate placements, and the types of placements they receive; additional expenditures are indeterminable.

Increased Administrative Duties: The requirement to obtain a national criminal history background check for all relative caretakers would likely increase administrative duties for probation departments. A large increase in administrative duties might create a need for additional staff.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small (*See Explanation of State Expenditures: Falsifying and Interfering*).

State Agencies Affected: FSSA; Indiana State Police; Department of Correction.

Local Agencies Affected: Local Offices of Family and Children; local probation offices; trial courts, local law enforcement agencies.

Information Sources: Steve Hillman, Indiana State Police, 232-5899; Child Welfare League of America; Becky Pryor, Creative Approaches, 652-5804; Jeff Bercovitz, Indiana Judicial Center, 232-1313.

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